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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,623	12/01/2003	Michael M. Kamrava	5603P001X2	4992
8791 7590 10/30/2007 BLAKELY SOKOLOFF TAYLOR & ZAFMAN 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040			EXAMINER NGUYEN, CAMTU TRAN	
			ART UNIT 3772	PAPER NUMBER
			MAIL DATE 10/30/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/725,623

Applicant(s)

KAMRAVA, MICHAEL M.

Examiner

Camtu T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 19-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☒ Claim(s) 10 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

This Office Action is responding to applicant's amendment filed on 8-15-2007. Claims 1, 2, 11, 12, and 14 have been amended. Claims 19-25 have been withdrawn from consideration as a result of the restriction mailed on 3-22-2007.

Applicant's comments pertaining to the references applied in the previous Office Action are acknowledged, particularly to the Weaver et al, the Gellman, and the Sloane, Jr. et al references. Thus, the rejections to the cited references have been withdrawn.

The claims, as amended, have been carefully considered but deemed now allowable in view of the following rejection.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation "the second point is beveled in a second direction opposite the first direction defining a tip" recited in claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to because do not show angles  $\alpha$  and  $\gamma$ , as disclosed in the specification in paragraphs 0028.

The drawing of Figure 7 is objected to because it does not show the distal end (230) as disclosed in the specification in paragraph 0052.

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Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 10 and 18 are objected to because they recite the inner diameter of the tip is between 400 and 500 micrometers ( $\mu\text{m}$ ), such range is 40-50 times larger than the inner diameter recited in claims 9 & 17. Although both claims 10 & 18 are supported the specification in paragraph 28, the limitations in the claims and the disclosure appear as if they were typographical errors since diameter ranges seem out of the ordinary for the application. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 4 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, claims 4 & 16 reciting a tapered region approximately 1.5 centimeters from the tip and the outside diameter of the shaft in the tapered region. Such recitation is different from the disclosure in paragraph 52.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 recites the limitation "an end opening" in line 7. There is insufficient antecedent basis for this limitation in the claim. It appears that applicant might have intended for it to recite "the opening" instead.

Claim 1 recites the limitations "the end" in lines 7 & 8. There is insufficient antecedent basis for this limitation in the claim.

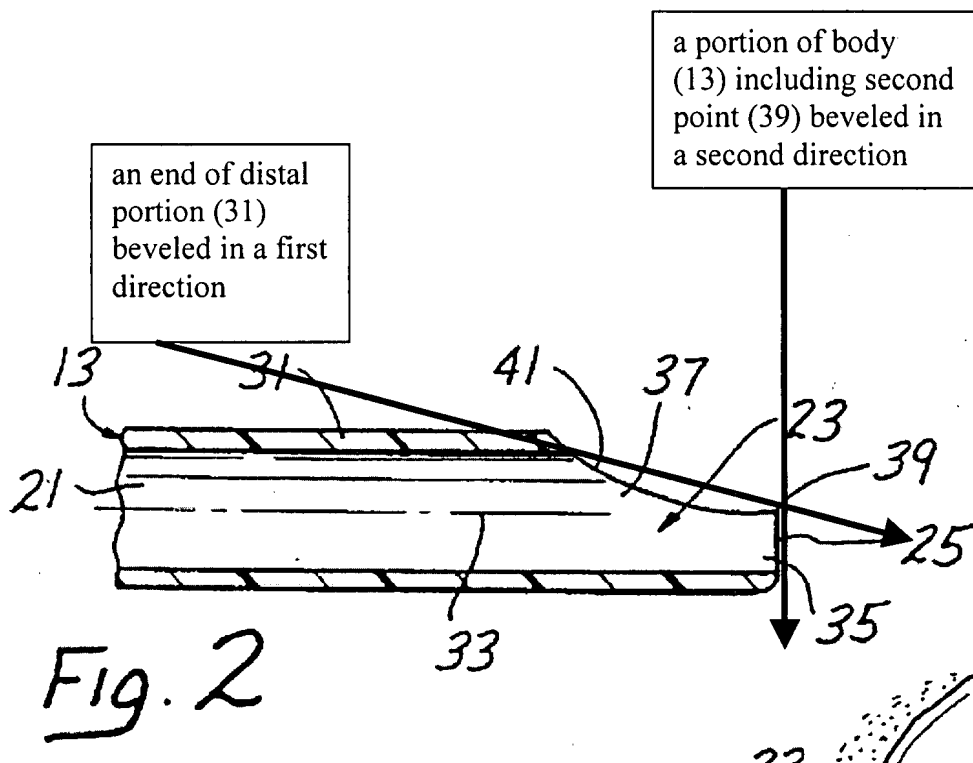
***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over by (U.S. Patent No. 4,474,576) and further in view of Bacich (U.S. Patent No. 5472419). Gobby discloses an artificial insemination a delivery member (30) comprising a delivery section (51), a storage section (53), and a passage through both sections (51, 53), the delivery member (30) defines a first axis of symmetry throughout the passage. Figure 2 illustrating a distal portion of the delivery member (30) is offset so as to preferably between 2 to 5 degrees inclined to the longitudinal axis of the delivery member (30), thus, the distal portion of the distal delivery section (31) defines a second different axis of symmetry throughout the passage a first axis of symmetry. The Gobby device does not disclose the distal passage portion of the delivery section (51) is beveled. Bacich discloses a transfer catheter body (13) comprising a proximal portion (27), a distal portion (31), an elongated passage (21), the distal portion (31) having an end that is beveled in a first direction across the passage (21), a portion of catheter (13) including a second point (39) is beveled in a second direction. Therefore, it would have been obvious to one skilled in the art during the time of this invention to modify the Gobby's distal passage portion of the delivery section (51) such that it would beveled, taught by Bacich, as such would not only facilitate the delivery process but also serve as a tool cutting through the endometrial lining when delivering the productive material.

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Regarding claims 2 & 3 and 14 & 15, particularly to claims 3 & 15 reciting the beveled opening angled between 10° to 15°, Figure 2 illustrates such opening angle range.

Regarding claims 6 & 7 and 12 & 13, particularly to claims 7 & 13 reciting the second axis of symmetry differs by a deflection angle of 10 to 15 degrees from the first axis of symmetry, the Gobby's distal passage portion is deflected or offset from the longitudinal axis preferably by 2 to 5 degrees, however, the 10 to 15 degrees deflection is not out of the ordinary given the anatomy of each woman varies from person to person, one skilled in the art during the time of the invention would have modify the Gobby's offset range to be 10 to 15 degrees from the longitudinal axis as such would accommodate various uteral anatomy. Furthermore, applicant's specification discloses in paragraph 0028 the preferred deflection 10 to 15 degrees but lacks the criticality for the claimed deflection. Thus, such recited deflection falls within

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reasonable ranges, one skilled in the art would have considered such deflection ranges for purposes of optimizing the embryo delivery procedure.

With regards to claims 9 & 10 and 17 & 18, particular to claims 10 & 18 reciting the inner diameter of the tip is between approximately 400 and 500 micrometers, the Bacich reference discloses the diameter of the passage (21) is 0.5 millimeter or 500 micrometers, the diameter of the passage (21) is essentially inner diameter of the tip.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 571-272-4799. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*CT Nguyen*  
Camtu Nguyen  
October 22, 2007

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10/29/07